

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 5580 of 2007(L)

PETITIONER:

SUHARABI KAYAKOL, W/O. ABDUL MAJEED,
KAYAKOOL HOUSE, ALLAMKULAM,
THALIPARAMBA, KANNUR DIST.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:

1. THE TAHSILDAR,
ASSESSING AUTHORITY, TALIPARAMBA TALUK,
TALIPARAMBA.
2. VILLAGE OFFICER,
TALIPARAMBA.

BY G.P. SRI. MOHAMMED RAFFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 COPY OF THE ASSESSMENT ORDER NO. C4-8587/03 DATED NI-3-2004 PASSED BY THE FIRST RESPONDENT.

EXT.P2 COPY OF THE RECEIPT FOR PAYMENT OF BUILDING TAX DATED 27.3.2004 ISSUED TO THE PETITIONER.

EXT.P3 COPY OF THE ASSESSMENT ORDER NO. C3.10488/02 DATED 5.10.2005 ISSUED BY THE FIRST RESPONDENT.

EXT.P4 COPY OF THE DEMAND NOTICE DATED 5.10.2005 ISSUED BY THE FIRST RESPONDENT.

EXT.P5 COPY OF THE RR NOTICE NO. C3 10488/02 DATED NIL ISSUED BY THE FIRST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 5580 OF 2007

Dated this the 19th day of June, 2007

JUDGMENT

Petitioner's grievance is that his house building is subjected to two building tax assessment. According to him construction of building was completed in 2002 and tax assessed vide Ext.P1 was paid vide Ext.P2. However, fresh order Ext.P3 is issued demanding tax and Ext.P4 is issued demanding luxury tax. Government Pleader pointed out that revised assessment order would have been issued on account of mistake committed in the original assessment wherein the plinth area assessed is around 50 sq.metr. less than the actual plinth area. If there is mistake in the original assessment, the same can be corrected through proceedings under Section 15 of the Building Tax Act. In any case, petitioner is entitled to a reasoned order for revision of original assessment. W.P. is therefore disposed of directing the first respondent to verify the records and issue notice to the petitioner giving reasons for revision of assessment, that is by pointing out the plinth area and other justifications for reopening assessment, give an opportunity to the

petitioner to file written reply, hear the petitioner and pass orders giving reasons for revision of assessment. If petitioner's contentions are tenable, and no revision of original assessment is called for, first respondent will drop his proposal to revise assessment, and on the other hand, if there is mistake in the original assessment, he will make revised assessment to the extent justified. All impugned orders will stand cancelled as and when revised orders are issued. If the petitioner does not produce copy of judgment and co-operate in the enquiry, then original orders will stand and first respondent will record the same and in that event, tax under the original orders will be recovered. Recovery proceedings will be kept in abeyance for two months for the Tahsildar to decide the matter afresh and thereafter recovery will be based on decision taken by Tahsildar as above.

Issue photocopy today itself.

(C.N.RAMACHANDRAN NAIR)
Judge

